



2011 Election Legislation

Montana Secretary of State Linda McCulloch Elections and Government Services

Following is a summary of legislation that affects election administration. This is only a summary of the legislation. The Secretary of State's office will provide a quick implementation review of each bill at the clerk and recorder convention in 2011, and a comprehensive review and training on implementation of all bills at the EA certification workshop in 2012.

HB 89 – Eliminate requirement for candidates to file CPP paperwork at county level

Effective October 1, 2011

- **13-37-225 Reports of contributions and expenditures required**
 - Statewide and state district candidates are no longer required to file CPP reports with the county election office
 - This includes district court candidates, PSC candidates, legislative candidates, statewide candidates

HB 91 – General clean-up of election laws

Effective January 1, 2012

- **13-2-110 Application for voter registration**
 - Removes the 15-day deadline for sending in the VR application
- **13-2-112 Register of electors**
 - Removes the requirement to file VR cards alphabetically in a separate file for each precinct
- **13-2-115 Certification of statewide voter registration list**
 - Requires EAs to have all VR cards that are submitted within the deadline for regular registration, entered in MT Votes within 5 working days after the 3-day postmark deadline
- **13-2-220 Maintenance of active and inactive VR lists**
 - Adds "applicants who failed to provide required information on registration cards", and "provisionally registered electors" to the individuals who will receive a targeted NVRA mailing

- Clarifies that an individual who applies for an absentee ballot for a federal general election, or who returns an address confirmation notice during the calendar year of a federal election is not included in the NVRA notice procedure unless that individual's ballot for a federal general election is returned undeliverable and is not resolved
- Adds that the second NVRA notice must be sent within 30 days of the first notice
- **13-2-304 Late registration**
 - Allows a late registrant to be issued a ballot if a voted ballot has not been received from the individual, and if the original issuing county voids the original ballot
- **13-2-511 Transferring registration or changing name**
 - Allows a voter's registration information to be updated by a "signed written communication"
- **13-2-512 Right to vote when precinct or name changed**
 - Clarifies that an individual may vote a ballot from their previous precinct the first election the individual votes in after the change, whether the person is voting at the polling place or by absentee or mail ballot
- **13-10-201 Declaration for nomination**
 - Clarifies that a precinct committee candidate is not subject to the prohibition against filing for more than one public office
 - Specifies that if a political subdivision is holding an election the same day as a federal primary or federal general election, a declaration for nomination for that political subdivision's election must be filed by the 85 day deadline (rather than 75-day deadline)
- **13-10-211 Declaration of intent for write-in candidates**
 - Clarifies that a write-in candidate for a general election may not file with a partisan, nonpartisan or independent designation
- **13-10-325 Withdrawal from nomination**
 - Removes the requirement for a candidate to state a reason for withdrawal
- **13-12-203 Appearance of a candidate's name and party designation on ballot**
 - Allows the party name to appear opposite or below the candidate's name
 - Changes the ballot wording "Nominated without party designation" to "Nonpartisan"
- **13-13-211 Time period for application**
 - Removes the earliest date for applying for an absentee ballot
- **13-13-214 Mailing absentee ballot to elector**
 - Removes the requirement to include in the absentee ballot packet a form to request to be on the absentee list
 - Removes the requirement to attach the ballot stub to the absentee ballot application
 - Requires the stubs to be kept in numerical order, either with the application if applicable, or in a precinct container
- **13-13-241 Examination of absentee ballot return envelopes**
 - Permits signature comparison of a voter's signature on the absentee ballot envelope with the absentee ballot application or the VR card

- Clarifies that in a primary election, if the unvoted party ballot is not received, the EA shall process the voted party ballot as if the unvoted party ballot was received (removes the requirement that the unvoted party ballot be returned)
- Requires that absentee ballots be stored “safely and securely” until election day
- **13-13-301 Challenges**
 - Specifies that further steps need to be taken by an EA in the event of a VR challenge only if the EA does not determine that the challenge is insufficient
- **13-14-115 Preparation and distribution of nonpartisan primary ballots-determination on conducting primary**
 - Clarifies that an EA may only determine that the local nonpartisan portion of a primary election need not be held
- **13-14-212 Form of ballot on retention of certain incumbent judicial officers**
 - Clarifies that if the incumbent judicial officer is the only candidate on the ballot, a write-in line or nonpartisan designation is not included on the general election ballot
- **13-15-107 Handling and counting provisional and challenged ballots**
 - Specifies that notice to a voter who cast a provisional ballot must be sent to explain why the ballot was or was not counted
- **13-17-203 Publication of information concerning voting systems**
 - Clarifies that a sample ballot layout is published, not necessarily a sample ballot
- **13-38-201 Election of committee representatives at primary**
 - Clarifies that the EA may decline to include the party's precinct election on the ballot – **see also SB 374**
 - Specifies that write-in votes may only be counted for precinct committee candidates if the individual has filed a declaration of intent

HB 99 – General clean-up of absentee/mail ballot laws

Effective January 1, 2012

- **13-13-201 Voting by absentee ballot-procedures**
 - Clarifies that an absentee ballot can be returned to a polling place, and that an absentee ballot must be returned in a manner that ensures the ballot is received by the deadline
- **13-13-204 Authority to vote in person – printing error or ballot destroyed-replacement ballot-effect of absentee elector's death**
 - Standardizes processes for an elector to receive a replacement ballot, whether it's an absentee ballot or a mail ballot
 - Allows a ballot to be voided in the issuing county and subsequently reissued a regular ballot upon receipt of a request for a replacement ballot on the prescribed form submitted to the EA in person, by regular or electronic mail, or by fax no later than 8 p.m. on election day
 - Alternatively allows an elector to appear at a polling place and vote a provisional ballot if their absentee ballot was “destroyed, spoiled, lost, or not received...”.

- The elector must fill out provisional the ballot envelope affirming that the elector’s ballot was destroyed, spoiled, lost or not received.
- **New Section 7 Notice to elector-opportunity to resolve questions**
 - Incorporates existing mail ballot language on how to resolve ballot problems
- **13-15-201 Preparation for count--absentee ballot count procedures**
 - Incorporates existing mail ballot language on how to determine a valid ballot
- **13-19-106 General requirements for mail ballot election**
 - Specifies that the absentee signature envelope is the same as the mail ballot signature envelope
- **13-19-305 Replacement ballots-procedures**
 - Refers to revised absentee law (HB 99) at 13-13-204 for the procedures
- **13-19-309 Disposition of ballots returned to election administrator’s office**
 - Refers to revised absentee law (HB 99) at 13-13-241 for the procedure
- **13-19-313 Notice to elector-opportunity to resolve questions**
 - Refers to NEW Section 7

HB 330 – Require option to sign up for annual absentee list on voter registration cards

Effective October 1, 2011

- **NEW Section 1 Standard application form for voter registration and absentee ballot requests**
 - Requires voter registration cards to be standardized and to include the option to be placed on the absentee list for federal elections only, or for all elections
- **13-13-212 Application for absentee ballot - special provisions**
 - Requires absentee application to comply with standardized language in NEW Section 1

HB 484 – Clarify that absentee list is not permanent

Effective April 1, 2011

- **13-13-212 and 13-21-201 Application for absentee ballot-special provisions-annual absentee ballot list**
 - Clarifies that the absentee list is an annual list, rather than a “permanent” list
 - Word “permanent” should be removed from all absentee forms

HB 530 – Process absentee ballots early

Effective October 1, 2011*

- **13-13-241 Examination of absentee ballot return envelopes-deposit of absentee and unvoted ballots-rulemaking**
 - Allows election officials to begin opening absentee ballot envelopes on the Monday before election day – **NOTE: this does not include any counting or tabulation of ballots, only opening of envelopes**
 - Opened ballots must be placed in secure ballot box after opening
 - A poll watcher must be present
 - Secretary of State must develop Rules on
 - The allowable distance from the observers to the judges and ballots
 - The security in the observation area
 - Secrecy of votes during the preparation of the ballots
 - Security of the secured ballot boxes until tabulation begins on election day

***since HB530 takes effect before the municipal general election, instructions and Rules detailing the process will be sent out once finalized. Note: if conducting the municipal election as a mail ballot election, early processing of mail ballots is not authorized by HB 530.**

SB 55 – Implement MOVE Act

Effective April 15, 2011

- **13-13-205 When ballots to be available**
 - Requires absentee ballots for voters covered under UOCAVA to be sent 45 days before any federal election
- **13-21-201 Registration of United States electors-simultaneous application for absentee ballot**
 - Allows an FPCA or FWAB to be accepted without a signature if transmitted electronically
- **13-21-210 Application for absentee ballots**
 - Clarifies that an electronic request is a means to apply for an absentee ballot
 - Removes the requirement to send absentee ballots to voters covered under UOCAVA for the next two regularly scheduled federal general elections; retains the requirement for ballots to be sent for all elections in the calendar year in which application is made
 - Outreach to UOCAVA voters will be coordinated by the SOS
 - There will need to be some date range maintenance in MT Votes

SB 374 – Revise election of precinct committee representatives

Effective October 1, 2011

- **13-38-201 Election of committee representatives at primary-vacancies**
 - Requires that precinct candidates file on a declaration of nomination form
 - Allows the EA to not hold a party's precinct election if candidates nominated is less than or equal to the number of positions to be elected
 - Requires the EA to issue the political party of the candidate who is declared elected by acclamation a certificate of election
 - Only write-in votes for a candidate who files a declaration of intent will be counted
 - NOTE: this legislation essentially eliminates write-in candidates for precinct office unless a write-in candidate files a declaration before the party's precinct committee person election is canceled.
 - The only write-in votes counted are those for a candidate who files a declaration of intent, and the declaration would have to be filed before the EA determines whether or not an election needs to be held

2011 LEGISLATIVE REFERENDA for 2012 BALLOTS

One Legislative Referendum will be on the June 2012 primary election ballot, 4 will be on the November 2012 general election ballot.

SB 268 (LR-119) – Legislative Referendum to require election of supreme court justices from districts

To be placed on the June 5, 2012 primary election ballot

- Because this Legislative Referendum is on the June 2012 ballot, an additional Voter Information Pamphlet will need to be sent to voters prior to the primary election
- The Secretary of State must pay for printing and shipping of this additional VIP
- Counties must pay for mailing this additional VIP

HB 627 (LR-120) – Legislative Referendum to revise parental notice of abortion and judicial bypass

To be placed on the November 6, 2012 general election ballot

HB 638 (LR-121) – Legislative Referendum to require proof of citizenship to receive state service

To be placed on the November 6, 2012 general election ballot

SB 418 (LR-122) – Legislative Referendum to prohibit health insurance purchase requirement

To be placed on the November 6, 2012 general election ballot

SB 426 (LR-123) – Legislative Referendum for contingent property and income tax reductions based on surplus

To be placed on the November 6, 2012 general election ballot